

UNITED STATES DISTRICT COURT

Middle District of North Carolina

DUNCAN J. MCNEILL, III,)	
)	
Plaintiff,)	
)	1:05CV965
v.)	
)	
UNITED STATES OF AMERICA,)	
et al.,)	
)	
Defendants.)	

O-R-D-E-R

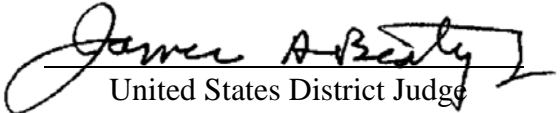
On November 3, 2005, in accordance with 28 U.S.C. § 636(b), the Recommendation of the United States Magistrate Judge was filed and notice was served on the parties in this action and a copy was given to the court.

Within the time limitation set forth in the statute, Petitioner objected to the Recommendation.¹

The court has appropriately reviewed the portions of the Magistrate Judge's report to which objection was made and has made a de novo determination which is in accord with the Magistrate Judge's report. The court hereby adopts the Magistrate Judge's Recommendation.

¹ Plaintiff has filed a Second Amended Verified Complaint, an Ex Parte Motion For Relief, and a Motion To Amend (docket no. 4) in an apparent response to the Recommendation. The court will treat these filings as Plaintiff's Objections to the Recommendation. This court and other courts have already determined that this Plaintiff is a "vexatious litigator," see *McNeil v. United States*, No. 05CV681 (M.D.N.C.), and while this court has considered Plaintiff's filings as part of its de novo review of the Recommendation, his filings do not change the result that this case must be dismissed without prejudice *sua sponte* to allow Plaintiff to file his complaint in the proper district.

IT IS HEREBY ORDERED that this action be DISMISSED sua sponte without prejudice to Plaintiff filing a new compliant in the proper district. A judgment dismissing this action will be entered contemporaneously with this Order.


United States District Judge

DATE: January 12th 2006